

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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DOUGLAS BERNSTEIN, ELAINE INGULLI,  
TERRY HALBERT, EDWARD ROY, LOUIS  
PENNER, and ROSS PARKE, as personal  
representative of THE ESTATE OF ALISON  
CLARKE-STEWART, on behalf of themselves  
and others similarly situated,

Plaintiffs,

vs.

CENGAGE LEARNING, INC.,

Defendant.

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Civil Action No. 19-cv-7541-ALC-SLC

**STIPULATION AND ORDER  
MEMORIALIZING AGREEMENT  
OF THE PARTIES WITH  
RESPECT TO MEDIATION AND  
PROPOSED CLASS NOTICE  
(DKT. NO. 286)**

Pursuant to the Court's October 30, 2023 Order regarding the agreement of the parties with respect to mediation and proposed class notice, (Dkt. No. 286), the parties jointly stipulate as follows:

1. The parties will mediate before The Hon. Suzanne H. Segal (Ret.) of Signature Resolution, on December 15, 2023, in Los Angeles, California.
2. To avoid the possibility of duplicative or overlapping class notice in the event that mediation is successful, the parties agree that:
  - a. If mediation is unsuccessful, Plaintiffs will file a motion for approval of the form and manner of class notice within one week of the mediation session;  
and
  - b. If mediation is successful, Plaintiffs will file a motion for preliminary approval of the class action settlement, along with a motion for approval of the form and manner of class notice, no later than two weeks after the parties file a notice of settlement.

3. Cengage agrees that it will not communicate with absent class members about waiving or releasing any claims or otherwise limiting their rights to recover from this action, without first:

- a. Notifying the class members about this action, providing the class members a copy of the operative complaint (Dkt. No. 121) and order certifying the class (Dkt. No. 279), and providing contact information for class counsel; and
- b. Notifying class counsel and providing contact information and applicable publishing agreements for the class members (to the extent Cengage is able to locate the applicable publishing agreement(s) after a diligent search).

4. The parties agree that Cengage may otherwise continue conducting its business and communicating with all authors, including buy-outs and/or waiver of rights that do not impact any class members' ability to participate in this class action.

SO STIPULATED AND AGREED.

Dated: November 10, 2023

/s/ Rohit D. Nath

Kalpana Srinivasan (admitted *pro hac vice*)  
Steven G. Sklaver (admitted *pro hac vice*)  
Rohit D. Nath (admitted *pro hac vice*)  
SUSMAN GODFREY L.L.P.  
1900 Avenue of the Stars, Suite 1400  
Los Angeles, CA 90067-6029  
Telephone: 310-789-3100  
Facsimile: 310-789-3150  
ksrinivasan@susmangodfrey.com  
ssklaver@susmangodfrey.com  
rnath@susmangodfrey.com

Chanler A. Langham  
SUSMAN GODFREY L.L.P.  
1000 Louisiana Street, Suite 5100  
Houston, TX 77002-5096  
Telephone: 713-651-9366

/s/ Christopher Chorba

Christopher Chorba (admitted *pro hac vice*)  
Alexander N. Harris (admitted *pro hac vice*)  
GIBSON, DUNN & CRUTCHER LLP  
333 South Grand Avenue  
Los Angeles, CA 90071  
Telephone: 213-229-7396  
Facsimile: 213-229-6396  
CChorba@gibsondunn.com  
AHarris@gibsondunn.com

Michael Hugh Gibson  
Glenn C. Edwards  
DUANE MORRIS LLP  
230 Park Avenue  
Ste 1130  
New York, NY 10169  
Telephone: 212-818-9200

Facsimile: 713-654-6666  
clangham@susmangodfrey.com


Alexander W. Aiken (admitted *pro hac vice*)  
SUSMAN GODFREY L.L.P.  
401 Union Street, Suite 3000  
Seattle, WA 98101  
Telephone: (206) 516-3880  
Facsimile: (206) 516-3883  
aaiken@susmangodfrey.com

*Class Counsel*

Facsimile: 212-818-9606  
MHGibson@duanemorris.com  
GCEdwards@duanemorris.com

*Attorneys for Defendant*

SO ORDERED. November 13, 2023

  
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Sarah L. Cave  
United States Magistrate Judge